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May 30, 2001

Mr. Rodney L. Joyce, Esq.
Shook, Hardy & Bacon LLP.
Hamilton Square
600 14th Street, NW, Suite 800
Washington, D.C. 20005

Re: Requested Adoption Under the FCC Merger Conditions

Dear Mr. Joyce:

Verizon New England Inc., d/b/a Verizon Maine, f/k/a New England Telephone and Telegraph Company (“Verizon”), has received your letter stating that, pursuant to paragraph 32 of the BA/GTE Merger Conditions (“Merger Conditions”), released by the FCC on June 16, 2000 in CC Docket No. 98-184, Network Access Solutions Corporation (“NAS”) wishes to provide services to customers in Verizon’s service territory in the State of Maine by adopting the voluntarily negotiated terms of the Interconnection Agreement between Network Access Solutions Corporation (“NAS”) and Verizon New Jersey Inc., f/k/a Bell Atlantic- New Jersey, Inc. (“Verizon New Jersey”) that was approved by the New Jersey Board of Public Utilities as an effective agreement in the State of New Jersey, as such agreement exists on the date hereof after giving effect to operation of law (the “Verizon New Jersey Terms”).

I understand that NAS has a copy of the Verizon New Jersey Terms which, in any case, are attached hereto as Appendix 1. Please note the following with respect to NAS’s adoption of the Verizon New Jersey Terms.

1. By NAS’s countersignature on this letter, NAS hereby represents and agrees to the following three points:
 - (A) NAS agrees to be bound by and adopts in the service territory of Verizon in Maine, the Verizon New Jersey Terms, as they are in effect on the date hereof after giving effect to operation of law, and in applying the Verizon

New Jersey Terms, agrees that references to Network Access Solutions Corporation and NAS in the Verizon New Jersey Terms shall apply to the adoption as well as the underlying agreement.

- (B) Notice to NAS and Verizon as may be required or permitted under the Verizon New Jersey Terms shall be provided as follows:

To NAS:

Attention:

Don Sussman
Vice President- Regulatory Affairs/Vendor Relations
13650 Dulles Technology Drive
Herndon, VA 20171
Telephone Number: 703-793-5102
Facsimile Number: 208-445-7278
Internet Address: dsussman@nas-corp.com

To Verizon:

Director-Contract Performance & Administration
Verizon Wholesale Markets
600 Hidden Ridge
HQEWMNOTICES
Irving, TX 75038
Telephone Number: 972-718-5988
Facsimile Number: 972-719-1519
Internet Address: wmnotices@verizon.com

with a copy to:

Vice President and Associate General Counsel
Verizon Wholesale Markets
1320 N. Court House Road
8th Floor
Arlington, VA 22201
Facsimile: 703/974-0744

- (C) NAS represents and warrants that it is a certified provider of local telecommunications service in the State of Maine, and that its adoption of the Verizon New Jersey Terms will only cover services in the service territory of Verizon in the State of Maine.
2. NAS's adoption of the Verizon New Jersey Terms shall become effective upon the date that Verizon files this letter with the Maine Public Utilities Commission ("Commission") (which Verizon will promptly do upon my receipt of a copy of

this letter, countersigned by NAS as to points (A), (B) and (C) of paragraph 1 above) and remain in effect no longer than the date the NAS/Verizon New Jersey agreement terminates. The NAS/Verizon New Jersey agreement is currently scheduled to terminate on June 20, 2002. Thus, the Verizon New Jersey Terms adopted by NAS also shall terminate on that date.

3. As the Verizon New Jersey Terms are being adopted by NAS pursuant to the Merger Conditions, Verizon does not provide the Verizon New Jersey Terms to NAS as either a voluntary or negotiated agreement. The filing and performance by Verizon of the Verizon New Jersey Terms does not in any way constitute a waiver by Verizon of any position as to the Verizon New Jersey Terms or a portion thereof. Nor does it constitute a waiver by Verizon of any rights and remedies it may have to seek review of the Verizon New Jersey Terms, or to seek review of any provisions included in these Verizon New Jersey Terms as a result of NAS's election pursuant to the Merger Conditions.
4. NAS's adoption of the Verizon New Jersey Terms pursuant to the Merger Conditions is subject to all of the provisions of such Merger Conditions. Please note that the Merger Conditions exclude the following provisions from the interstate adoption requirements: state-specific pricing, state-specific performance measures, provisions that incorporate a determination reached in an arbitration conducted in the relevant state under 47 U.S.C. Section 252, provisions that incorporate the results of negotiations with a state commission or telecommunications carrier outside of the negotiation procedures of 47 U.S.C. Section 252(a)(1), and provisions from the NAS/Verizon New Jersey agreement that are not required pursuant to Section 251(c) of the Telecommunications Act of 1996 (the "Act"). Verizon, however, does not oppose NAS's adoption of the Verizon New Jersey Terms at this time, subject to the following reservations and exclusions:
 - (A) Verizon's standard pricing schedule for interconnection agreements (as such schedule may be amended from time to time) (attached as Appendix 2 hereto) shall apply to NAS's adoption of the Verizon New Jersey Terms. NAS should note that the aforementioned pricing schedule may contain rates for certain services the terms for which are not included in the Verizon New Jersey Terms or that are otherwise not part of this adoption. In an effort to expedite the adoption process, Verizon has not deleted such rates from the pricing schedule. However, the inclusion of such rates in no way obligates Verizon to provide the subject services and in no way waives Verizon's rights under the Merger Conditions.
 - (B) NAS's adoption of the Verizon New Jersey Terms shall not obligate Verizon to provide any interconnection arrangement or unbundled network element unless it is feasible to provide given the technical, network and Operations Support Systems attributes and limitations in, and

is consistent with the laws and regulatory requirements of the State of Maine and with applicable collective bargaining agreements.

- (C) On January 25, 1999, the Supreme Court of the United States issued its decision on the appeals of the Eighth Circuit's decision in *Iowa Utilities Board*. The Supreme Court modified several of the FCC's and the Eighth Circuit's rulings regarding unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, 119 S. Ct. 721 (1999). Certain provisions of the Verizon New Jersey Terms may be void or unenforceable as a result of the Supreme Court's decision of January 25, 1999, the United States Eighth Circuit Court of Appeals' decision in Docket No. 96-3321 regarding the FCC's pricing rules, and the current appeal before the Supreme Court of the United States regarding the FCC's UNE rules. Moreover, nothing herein shall be construed as or is intended to be a concession or admission by Verizon that any provision in the Verizon New Jersey Terms complies with the rights and duties imposed by the Act, the decisions of the FCC and the Commissions, the decisions of the courts, or other law, and Verizon expressly reserves its full right to assert and pursue claims arising from or related to the Verizon New Jersey Terms.
- (D) NAS's adoption of the Verizon New Jersey Terms does not include any provisions related to reciprocal compensation, which provisions are not subject to the interstate adoption requirements under the Merger Conditions. For example, reciprocal compensation provisions constitute state-specific pricing, which as described above, is exempt from the interstate adoption requirements in the Merger Conditions. Also, because the obligation to pay reciprocal compensation is found in Section 251(b)(5), reciprocal compensation provisions are outside the scope of Merger Conditions' requirement permitting adoptions of provisions required to be provided under Section 251(c). Moreover, even if the Merger Conditions were misconstrued as encompassing not only items subject to Section 251(c), but also items subject to Section 251(b), it would still not obligate Verizon to permit the interstate adoption of compensation terms pertaining to Internet Traffic. The FCC found that Internet Traffic constitutes "information access" outside the scope of the reciprocal compensation obligations set forth in Section 251(b)(5).¹ Thus, even if the NAS/Verizon New Jersey agreement has, or is mistakenly construed as containing, a voluntary commitment to pay compensation on Internet traffic, that commitment would be entirely outside the scope of the interstate adoption provisions of the Merger Conditions.² Please

¹ Order on Remand and Report and Order, In the Matters of: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68 (rel. April 27, 2001) ("*FCC Remand Order*") ¶44.

² In addition, any reasonable amount of time permitted for adopting interconnection agreement provisions that invoke a compensation mechanism for internet traffic under the FCC's rules implementing section 252(i) of the Act (47 C.F.R. § 51.809(c)) has expired. These rules implementing section 252(i) of the Act

contact Verizon at your earliest convenience to supplement NAS's adoption with an agreement regarding reciprocal compensation.³

- (E) NAS's adoption does not include any terms that were arbitrated in the Verizon New Jersey Terms.
5. Verizon reserves the right to deny NAS's adoption and/or application of the Verizon New Jersey Terms, in whole or in part, at any time:
- (A) when the costs of providing the Verizon New Jersey Terms to NAS are greater in Maine than the costs of providing them to NAS in New Jersey;
 - (B) if the provision of the Verizon New Jersey Terms to NAS is not technically feasible;
 - (C) if Verizon otherwise is not obligated to permit such adoption and/or application under the Merger Conditions or under applicable law.
6. Should NAS attempt to apply the Verizon New Jersey Terms in a manner that conflicts with paragraphs 3-5 above, Verizon reserves its rights to seek appropriate legal and/or equitable relief.

apply to interstate adoptions under the Merger Conditions as well. *See, e.g.*, Merger Conditions ¶32 (such adoptions shall be made available "under the same rules that would apply to a request under 47 U.S.C. § 252(i)").

³ For your convenience, an industry letter distributed by Verizon explaining its plans to implement the *FCC Remand Order* can be viewed at Verizon's Customer Support Website at URL www.verizon.com/wise (select Verizon East Customer Support, Resources, Industry Letters, CLEC).

Please arrange for a duly authorized representative of NAS to sign this letter in the space provided below and return it to the undersigned.

Sincerely,

VERIZON NEW ENGLAND INC., D/B/A VERIZON MAINE

Jeffrey A. Masoner

Vice President – Interconnection Services Policy & Planning

Reviewed and countersigned as to points A, B, and C of paragraph 1:

NETWORK ACCESS SOLUTIONS CORPORATION

By_____

Title_____

Attachment

c: Hernando Londono - Verizon (w/out attachments)

Agreement

Appendix 2